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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,878

04/14/2004

Joseph Vogrig

78592

5675

22242 7590 09/28/2007
FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
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CHICAGO, IL 60603-3406

EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

MAIL DATE	DELIVERY MODE
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09/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,878

Applicant(s)

VOGRIG ET AL.

Examiner

Greg Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5, 9-19 and 21-24 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 6-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4 September 2007 has been entered.

Claims 1-19 and 21-24 are pending in the application. Claims 20 and 25-27 have been canceled.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. The indicated allowability of claim 7 is withdrawn in view of the newly discovered reference(s) to Lange (US 3,892,313). Rejections based on the newly cited reference(s) follow.

Oath/Declaration

4. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

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The oath or declaration is defective because:

The second inventor listed on the Declaration of 16 August 2004 (submitted in response to a notice to file missing parts) is different than the second inventor submitted on the unsigned Declaration of 14 April 2004 (submitted with original application papers).

As there is no petition to correct inventorship on record, this discrepancy must be addressed.

Claim Rejections - 35 USC § 102

5. Claims 1, 2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards (EP 565302 A2).

Claim 1: It is initially noted that the upper and lower "surfaces" are recited broadly and may be read to encompass structures other than planer portion. Accordingly, Edwards discloses a unitary plate body 1 with an upper surface (top-most surface in Figure 3) and a lower surface (lower-most portion of 19); a plurality of rivets 4 (see Abstract) having preformed rivet heads 16 having aligned top surfaces (see Figure 1); and a plurality of apertures 2 having retaining portions 19 that are flexible and configured to hold the rivets with their top surface below the upper surface and closer to the lower surface.

Claim 2: Edwards is sized to receive the heads as claimed.

Claim 6: Use of the broad term "portions" does not define any additional structures. Items 19 of Edwards have "portions" (i.e. parts of the integral structure) both above and below the head of rivet 4, and capture the head of the rivets.

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6. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Lange (US 3,892,313).

Initially it is noted that the rivets are not positively claimed. Accordingly, Lange discloses a unitary plate 1 with a plurality of apertures 2 capable of retaining heads of fasteners; the plate including portions above and below the head of the retained fasteners (see Figure 1) and the portions below the fasteners comprising webs 5 about each aperture spaced by radially enlarged openings 6 between adjacent webs 5. Lange is fully capable of retaining rivets.

Claim Rejections - 35 USC § 103

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards, as applied to claim 1 above, and further in view of Blacket et al (US 6,116,835; previously provided).

Edwards, as applied to claim 1 above, discloses the claimed invention except for the frangible bridges.

Blacket teaches a plurality of interconnected plates separated by frangible bridges 97 (see for example Figure 17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the holder of Edwards with frangible bridges as taught by Blacket in order to enable separation of the holder into sections.

Allowable Subject Matter

8. Claims 3-5, 9-19, and 21-24 appear to define over the available prior art and are allowed.

9. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

10. Applicant's arguments with respect to claims 1, 2 and 6-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. It must be noted that as currently arranged, the application presents six (6) independent claims; depending upon when the applicant responds, an Examination Support Document (ESD) may be required. See revised 37 CFR 1.75(b).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greg Pickett/
Examiner
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